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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,373	08/20/2003	Craig L. Holloway		4844

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EXAMINER


ELDRED, JOHN W

ART UNIT PAPER NUMBER

3644

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 Office Action Summary	Application No.	Applicant(s)	
	10/643,373	HOLLOWAY, CRAIG L.	
	Examiner	Art Unit	
	J. Woodrow Eldred	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |



DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, “bombs, artillery shells, missile (sic) warheads, torpedo warheads, depth charges, or other explosive, incendiary, biological, chemical, electromagnetic or nuclear ordnance” is alternative and indefinite.

In claims 2 and 4, “triangular, conical, circular or other geometric pattern” is alternative and indefinite.

In claims 3 and 14, “bombs, artillery shells, missile warheads, torpedo warheads, depth charges, or other explosive, incendiary, biological, chemical, electromagnetic or nuclear ordnance” is alternative and indefinite.

In claim 3, “synergeticly” is vague and indefinite since it is not clear what the limits of claimed protection are being defined by this term.

In claim 5, “rolling detonation” is vague and indefinite as to the particular process limits implied by this term.

In claim 6, “the target has no antecedent basis in the claims.

In claim 7, “bouncing or rhythmic sequence” is vague and indefinite as to the particular process limits implied by this term, as well as being alternative.

In claim 8, the limits of “to dig out and expose” is vague and indefinite.

In claim 9, “in a synergetic way” is vague and indefinite and fails to make clear the limits of the claim.

In claim 12, “chemical or biological attacks” is alternative and indefinite. In claim 12, “enhanced or attenuated” is alternative and indefinite.

In claim 13, “the larger blast area” has no antecedent basis in the claims.

In claim 14, “electromagnetic or electromagnetic and percussion fuses” is alternative and indefinite. In claim 14, “the electromagnetic signal or signals” has no antecedent basis in the claims and is alternative. In claim 14, “synchronous or synergetic event” is alternative and “synergetic event” is unclear as to the limits of the claimed process. Also, claim 14 is indefinite because there is no period dot to end the sentence, so it is not clear that the claim is complete.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Stiennon (4,359,944).

Stiennon discloses a plurality of ordnance distributed to form enhanced explosive effects due to the timing of the explosions. Note in column 4, lines 25-38 that the time delayed blasting caps in combination with a blasting machine is considered to read on the broad term of a “timed fuse”. Figure 1 indicates a situation with simultaneous explosions. Figure 3 indicates a situation in which the explosions occur at different times to enable the explosive force to reach the target at the same instant. This last situation is considered to anticipate the broad and unclear terms of “a rolling detonation” and “a rhythmic sequence.” See column 3, lines 12-15. Note also that the “placing a large number of small explosive packages on the surface of the shock wave mirror” in column 2, lines 38-39 inherently anticipated a “method of delivery.”

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stiennon (4,359,944) in view of Schroeder (3,951,066).

Stiennon discloses a process of creating an enhanced explosion event comprising a plurality of explosive ordnance with timed fuses which provide either synchronized explosions or explosions timed to provide their energy onto the target in a synchronized manner. Note Figures 1 and 3, and the notes on the above 102 rejection. Stiennon fails to disclose the combination of explosive and incendiary ordnance. Schroeder teaches that it is known to provide ordnance that combines explosives and incendiary material in the same device. See especially the Summary. Motivation to combine is the mere substitution of one type of ordnance for another in order to perform the same function of providing an explosive force but with the added destruction potential of incendiary devices being included in the system. To employ the teachings of Schroeder on the process of Stiennon and have both explosives and incendiary ordnance is considered to have been obvious to one having ordinary skill in the art.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stiennon (4,359,944) in view of Turchi (5,835,545).

Stiennon discloses a process of creating an enhanced explosion event comprising a plurality of explosive ordnance with timed fuses which provide either synchronized explosions or explosions timed to provide their energy onto the target in a synchronized manner. Note Figures 1 and 3, and the notes on the above 102 rejection. Stiennon fails to disclose the ordnance comprising electromagnetic pulse ordnance. Turchi teaches that it is known to employ ordnance that provides electromagnetic pulses. See especially the Abstract. Motivation to combine is the mere substitution of one type of ordnance for another in order to perform the same function of providing a destructive force but with different destructive parameters that can be matched with

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different targets to provide increased efficiency. To employ the teachings of Turchi on the process of Stiennon and have electromagnetic pulse ordnance is considered to have been obvious to one having ordinary skill in the art.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stiennon (4,359,944) in view of Chawla (4,627,353).

Stiennon discloses a process of creating an enhanced explosion event comprising a plurality of explosive ordnance with timed fuses which provide either synchronized explosions or explosions timed to provide their energy onto the target in a synchronized manner. Note Figures 1 and 3, and the notes on the above 102 rejection. Stiennon fails to disclose explosives having different rates of expansion. Chawla teach that it is known to provide ordnance that combines explosives with different expansion rates. See especially the Abstract. Motivation to combine is the mere substitution of one specific type of explosive ordnance for an unspecified explosive ordnance in order to perform the same function of providing an explosive force. To employ the teachings of Chawla on the process of Stiennon and have both explosives and incendiary ordnance is considered to have been obvious to one having ordinary skill in the art.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stiennon (4,359,944) in view of Kurschner et al (5,497,704).

Stiennon discloses a process of creating an enhanced explosion event comprising a plurality of explosive ordnance with timed fuses which provide either synchronized explosions or explosions timed to provide their energy onto the target in a synchronized manner. Note Figures 1 and 3, and the notes on the above 102 rejection. Stiennon fails to disclose an electromagnetic fuse. Kurschner et al teach that it is known to provide an electromagnetic fuse and electromagnetic signals to initiate the detonation of explosive ordnance. See especially column 6, lines 6-44. Motivation to combine is the mere substitution of one type of ordnance fuse system for another in order to perform the same function of initiating the explosion at the desired time. To employ the teachings of Kurschner et al on the process of Stiennon and have an electromagnetic fuse is considered to have been obvious to one having ordinary skill in the art.

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10. Claims 8, 12, and 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Woodall, Jr. et al; Ziolkowski; Thomanek; Air Defenses of World War II; and Stan Gajda are cited as being of interest since they disclose ordnance systems.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Woodrow Eldred whose telephone number is 703-306-4151. The examiner can normally be reached on Monday to Thursday, from 8:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 703-305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



J. Woodrow Eldred
Primary Examiner
Art Unit 3644

JWE